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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OPTV/MEYERTONS MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2424	PAPER NUMBER
			NOTIFICATION DATE 09/04/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/827,358

Applicant(s)

DUREAU ET AL.

Examiner

ANNAN Q. SHANG

Art Unit

2424

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 58-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 and 58-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/02)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1A. Applicant's arguments filed 05/04/09 have been fully considered but they are not persuasive.

With respect to the rejection of the last office action, Applicant discusses the...112 rejection, discusses the rejection using the prior arts of record and further argues that the prior arts of record do not meet the claims limitations (see page 10/13+ of Applicant's Remarks).

In responses, Examiner notes Applicant's arguments, however, the Examiner disagrees. Inagaki teaches a broadcasting reception apparatus where a processing unit executes a decoding software program (library) for decoding data using different instructions. Furthermore, Inagaki teaches a header and data, both of which creates the format definition, wherein the header identifies the name of the library and attributes in combination with the data reads on a format definition. Applicant appears to allude to a format as a syntax or semantics of the data, but this is not required as format is given the broadest reasonable interpretation in the art, which does not preclude software code. As such the name of the library in combination with the code reads on a format definition. Hence Inagaki, teaches libraries for decoding a broadcast signal and additionally received data. Hence Applicant's arguments are not persuasive. The rejection is deemed proper meets all the claims limitations and maintained. **This office action is made final.**

1B. As to the ...112 rejection, Applicant's arguments filed 05/04/09 have been fully considered but they are not persuasive and Examiner still maintains the position that the preamble of structure and limitations of method steps is improper.

The applicant disagrees with the rejection under 35 U.S.C. § 112, second paragraph as being indefinite. The examiner is relying on MPEP 2173.05(p) (II) – directed to a product and process in the same claim. See also: A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. *> IPXL Holdings v. Amazon.com, Inc., 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005);<Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter.1990). The examiner maintains the position that the preamble of structure and limitations of method steps is improper.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-43, 68, and 70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1 and 70 are apparatus claims, based on the preamble, however the claim limitations are method steps. It is unclear based on the preamble and claim limitations whether the applicant is an apparatus claim or a method claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 7, 42, 43, 58, 59, 67 and 72 are rejected under 35 U.S.C. 102(e) as being anticipated by **U.S. Patent 6,337,715 to Inagaki et al. (Inagaki)**.

4. Regarding claims 1 and 58, Inagaki teaches a receiver for processing data, where the receiver comprises a generic data processing engine (fig. 7), configured to: receive a format definition, where the format definition comprises a description of a grammar which defines a syntax of a target language (col. 15, ll. 50-57), configure the engine responsive to receiving the format definition (col. 15, ll. 36-49), and receive additional data which conforms to the target language and process the additionally received data in accordance with the format definition (col. 15, ll. 36-49: the library has the decoding software for decoding the additional information).

Regarding claim 2, Inagaki teaches the receiver receiving a broadcast including the received data (col. 15, ll. 61-67).

Regarding claim 3, Inagaki teaches the engine receiving the format definition from the broadcast (col. 15, ll. 61-67).

Regarding claim 4, Inagaki teaches the receiver receiving the broadcast including the data (col. 15, ll. 61-67).

Regarding claims 7, 59 and 72, Inagaki teaches the definition including a software program, a format specification interface which includes a syntax initialization engine and a semantics initialization engine (col.15, lines 36-67) and inherently includes descriptions of semantics of the format in order to decode the particular format.

Regarding claims 42 and 67, Inagaki teaches television related information (col. 15, ll. 36-49).

Regarding claim 43, Inagaki teaches service information (col. 15, ll. 36-49).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-11, 26-27, and 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over to **Inagaki et al (6,337,715)** in view of **Program Guide for Digital Television ATSC Standard (ATSC)**.

Regarding claim 5, Inagaki teaches the receiver receiving the data, and teaches different transmission means, but is silent on receiving a multicast. ATSC teaches receiving a multicast including data and wherein the engine is further configured to

receive the format definition from the multicast derived from a point-to-multipoint multicast of EPG data (see pg. 1, para. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by using multicast as taught by ATSC in order to provide different transport mediums to permit the user to access data.

Regarding claim 6, Inagaki teaches receiving the format definition, but is silent on receiving data via a multicast. ATSC teaches receiving a multicast including data and wherein the engine is further configured to receive the format definition from the multicast derived from a point-to-multipoint multicast of EPG data (see pg. 1, para. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by using multicast as taught by ATSC in order to provide different transport mediums to permit the user to access data.

Regarding claims 7-11 and 59-61, Inagaki is silent on the definition including a description of syntax, description of semantics, a semantic description associating at least one identifier with received data, wherein the syntax and semantics are described in a first language, configured to produce an internal representation of the syntax and semantics. ATSC teaches a description of the syntax and semantics of the format, wherein the semantic description associated at least one identifier with the data, wherein the syntax and semantics are described in a first language, configured to produce an internal representation of the syntax and semantics (table 5.2 - pg. 7, table 5.5 - pg. 16, table 5.6 - pg. 18, table 5.7 - page 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

Inagaki by the definition including a description of syntax, description of semantics, a semantic description associating at least one identifier with received data, wherein the syntax and semantics are described in a first language, configured to produce an internal representation of the syntax and semantics as taught by ATSC in order to effectively define the protocol for sending data, thereby enabling the receiving device to decode the received data.

Regarding claims 26 and 27, Inagaki is silent on the syntax as a first language and the semantics as a second language, and producing an internal representation of the syntax and semantics. ATSC teaches a description of the syntax and semantics of the format, wherein the syntax and semantics are described in a first language and second language (as the claim does not require the languages to be different), configured to produce an internal representation of the syntax and semantics (table 5.2 - pg. 7, table 5.5 - pg. 16, table 5.6 - pg. 18, table 5.7 - page 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by the syntax as a first language and the semantics as a second language, and producing an internal representation of the syntax and semantics as taught by ATSC in order to effectively define the protocol for sending data, thereby enabling the receiving device to decode the received data.

7. Claim 73 is rejected under 35 U.S.C. 103(a) as being unpatentable over to **Inagaki et al (6,337,715)** in view of **Hopkins (6,286,133)**

Inagaki discloses a decoding software for decoding a plurality of broadcasting formats, but silent as to where the decoder which includes a lexical analyzer and parser.

However, Hopkins discloses method and apparatus for strategic compilation of source programs into two or more target languages and further discloses a lexical analyzer and parser (col.2, line 1+ and col.4, line 6+).

Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Hopkins into the system of Inagaki to process and convert a sequence of characters into other program or software character sequence(s) or format as desired.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANNAN Q. SHANG** whose telephone number is **(571)272-7355**. The examiner can normally be reached on **7:00am-4:00pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/
Primary Examiner, Art Unit 2424

Annan Q. Shang